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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/019,367	04/30/2002	Gordon Duane Hopkins	5006602-6	7944

38678 7590 07/12/2004

IAN FINCHAM  
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225 METCALFE STREET  
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CANADA

EXAMINER

GANEY, STEVEN J

ART UNIT	PAPER NUMBER
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3752

DATE MAILED: 07/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/019,367

Applicant(s)

HOPKINS, GORDON DUANE

Examiner

Steven J. Ganey

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 23-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 23-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. Receipt is acknowledged of the amendment filed on April 14, 2004, which has been fully considered in this action.

#### *Claim Objections*

2. Claims 23, 29 and 31 are objected to because of the following informalities: In claim 23, line 12, the phrase "said first and second valves" should be --said first and second valve means-- in order to maintain proper antecedent basis. In claim 29, line 2, the phrase "said first and second valves" should be --said first and second valve means-- in order to maintain proper antecedent basis. In claim 31, lines 2 and 4, the phrase "said first valve" should be --said first valve means--, in line 3, the phrase "said second valve" should be --said second valve means--, and in line 5 the phrase "said first and second valves" should be --said first and second valve means-- in order to maintain proper antecedent basis. Appropriate correction is required.

#### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 23-31 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant

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art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The specification is silent to the embodiment where the first valve means dispenses the gas and where the second valve means dispenses the liquid. The only embodiment disclosed appears to be where the first valve means dispenses the liquid and the second valve means dispenses the gas.

In regard to claim 28, the specification is silent to the embodiment where there is a means for feeding liquid from the transfer passage to an outlet in the bore, it appears that only gas is dispensed from the transfer passage.

5. Claims 23-31 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for the first valve means dispenses the liquid and the second valve means dispenses the gas, does not reasonably provide enablement for the first valve means dispenses the gas and where the second valve means dispenses the liquid. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention commensurate in scope with these claims. As currently claimed the invention operates opposite to what is disclosed and shown. The only embodiment disclosed appears to be where the first valve means dispenses the liquid and the second valve means dispenses the gas.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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7. Claims 25, 28 and 29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 25, lines 2 and 3, the recitation of the "plug means" is indefinite since as currently claimed if the plug is at the other end for closing the bore then no gas would be able to be dispensed from the device. This claim appears to be directed to the embodiment in figure 7. If applicant is attempting to direct the claim to the embodiment in Figure 8, then another end of the bore perpendicular to the transfer passage should be recited.

In claim 28, lines 3 and 4, "said bore" is indefinite, since it is not clear if this is the bore of the transfer passage or the bore of the body.

In claim 28, line 4, the phrase "an outlet" raises double inclusion issues since it appears to be reciting the same outlet recited in claim 1, line 3, "a body having separate outlets".

In claims 28 and 29, lines 1 and 2, respectively, the recitation of "a valve body", raises double inclusion issues since "a body" has already been positively recited in claim 1, line 3, and both the "body" and "valve body" are the same element.

### *Claim Rejections - 35 USC § 102*

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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9. Claims 23, 24, 26 and 30 (as best understood) are rejected under 35 U.S.C. 102(b) as being anticipated by Lee '689.

Lee '689 shows a n apparatus for dispensing a gas and liquid comprising a container 1, a body 4/11 with separate outlets for gas 13 and liquid 12; first valve means 18 for the gas; second valve means 24 for the liquid; and means 14 to open together each of the first and second valve means.

### *Response to Arguments*

10. Applicant's arguments with respect to claims 23-31 have been considered but are moot in view of the new grounds of rejection.

### *Conclusion*

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Dunn, O'Neil, Vork and Davis show apparatuses for dispensing air and liquid separately from a container.

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

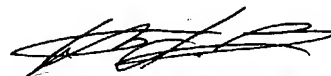
13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven J. Ganey whose telephone number is (703) 308-2585. The examiner can normally be reached on Monday, Tuesday, Thursday and Friday from 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mar, can be reached on (703) 308-2087. The fax phone number for this Group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1113.

sjg

7/11/04



**STEVEN J. GANEY**  
**PRIMARY EXAMINER**

7/11/04